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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015 - 38

A RESOLUTION APPROVING THE FIRE CONTROL AND PREVENTION INTERLOCAL AGREEMENT BETWEEN THE SAN CARLOS FIRE DISTRICT AND THE VILLAGE OF ESTERO REGARDING FIRE CONTROL AND PREVENTION SERVICES FOR THE VILLAGE OF ESTERO; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida:

SECTION ONE. The Fire Control and Prevention Interlocal Agreement between the San Carlos Fire Rescue District and the Village of Estero regarding Fire Control and Prevention Services, a copy of which is attached hereto and incorporated herein by this reference, is approved; and

SECTION TWO. The Mayor is hereby authorized to execute the Interlocal Agreement between the San Carlos Fire Rescue District on behalf of the Village.

SECTION THREE. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this ____ day of July, 2015.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____
Kathy Hall, MMC, Village Clerk

By: _____
Nicholas Batos, Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq., Village Attorney

**INTERLOCAL AGREEMENT
RELATING TO FIRE CONTROL AND RESCUE SERVICES,
FIRE PREVENTION AND COLLECTION
AND DISBURSEMENT OF FIRE IMPACT FEES**

THIS INTERLOCAL AGREEMENT is made and entered into between the San Carlos Park Fire Protection and Rescue Service District, an independent fire rescue district and political subdivision of the State of Florida created by special act of the Florida Legislature, whose address is 19591 Ben Hill Griffin Parkway, Fort Myers, Florida 33913 hereinafter referred to as (the "District") and the Village of Estero, a Florida municipal corporation whose address is Post Office Box 424, Estero, Florida 33929 hereinafter referred to as (the "City").

WITNESSETH

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes authorizes all governments in the state of Florida to jointly exercise any constitutional or statutory power, privilege or authority which either government might exercise separately; and,

WHEREAS, the District and City are political subdivisions and local governments within the meaning of the Florida Interlocal Cooperation Act and desire the joint exercise of certain powers which each government might exercise separately for the purpose of enforcing the Florida Fire Safety Code, Chapter 633, Florida Statutes and local ordinances relating to fire control and prevention and the collection and disbursement of fire impact fees; and,

WHEREAS, the City will not employ a Fire Official, Fire Marshal or Fire Safety Inspector and will not provide fire rescue services within the City and will rely for such services within the jurisdiction of the District on the resources and personnel of the District; and,

WHEREAS, both the City and the District possess the statutory authority to collect and utilize fire impact fees to provide for additional fire rescue resources required to serve the City as its population grows; and,

WHEREAS, the City has statutory authority pursuant to Chapter 553, Florida Statutes, the Florida Building Code, and Part II, Chapter 163, Florida Statutes, Florida's Growth Management Act to regulate, control and permit all development within municipal boundaries as specified by law; and,

WHEREAS, the District and the City agree that fire impact fees specified by District policy, as it may be amended from time to time, will be collected by the City as part of the process of issuance of building permits for new construction or redevelopment within the City and disbursed to the District, less, an administrative fee as specified by this interlocal agreement.

NOW THEREFORE, in consideration of the foregoing, and the mutual covenants and promises contained herein, the District and City agree as follows:

SECTION ONE: RECITALS

The recitals contained above are incorporated into this interlocal agreement as if they were set forth in full below.

SECTION TWO: FIRE CONTROL AND RESCUE SERVICES AND FIRE PREVENTION

1. The District and City acknowledge and agree that fire control, prevention, and rescue within the territory and jurisdictional boundary of the District and located within the boundary of the City are the responsibility of the District.
2. The City and District agree that the Fire Chief of the District shall act as the Fire Official for the City and shall meet or exceed the following qualifications:
 - a. The Fire Official shall have a minimum of a high school diploma or equivalent certificate and shall be certified by the State of Florida as a fire inspector. In lieu of such certifications, any combination of experience or training which has resulted in equivalent knowledge, skills, abilities and certifications may be accepted.
 - b. The Fire Official shall be appointed and certified as qualified by the District's governing board and notice of the certification and appointment shall be filed with the City Clerk with a copy to the City Manager.
3. The District and City agree that the Fire Marshal of the District shall act as the Fire Safety Inspector for the City as described in Section 633.216, Florida Statutes and shall meet or exceed the statutory requirements of that Section (Exhibit A, attached and incorporated herein).
4. The Fire Marshal may be either the Fire Chief, the Fire Marshal or another qualified person appointed and certified as qualified by the Fire Chief. Notice of the certification shall be filed with the City Clerk with a copy to the City Manager.
5. The District and City agree that all of the duties of a Fire Official, Fire Marshal or Fire Safety Inspector may be exercised by a deputy, assistant or designee who meets the qualifications for the respective function and has been designated by the Fire Chief.
6. The Fire Chief, as Fire Official, the Fire Marshal, as Fire Safety Inspector and their deputies, assistants or designees set forth in the attached list attached and incorporated herein as Exhibit B are hereby appointed as Code Inspectors/Code Enforcement Officers for the City within the meaning of Chapters 162, 166, 553 and 633, Florida Statutes and ordinances and the City's charter and ordinances. The list of officials on Exhibit B may be revised upon notification of the City Clerk with a copy to the City Manager. Any revised list shall be incorporated into this agreement upon notification to the City Clerk. The designees on Exhibit B may enforce all applicable state or local Fire Codes.

7. The District will provide assistance to the City to properly interpret and enforce the Florida Fire Prevention Code, the Florida Building Code to the extent it relates to fire safety inspection and fire prevention and any ordinances and duly enacted policies and regulations of the City relating to fire safety, fire inspection and fire control.
8. The District and City will coordinate their efforts to provide for a smooth, efficient and timely process for receiving and reviewing construction applications and plans and for permit issuance. The City Manager and the Fire Chief or their designees will be responsible for coordination of the permitting process and may make changes to the process by mutual written agreement or memorandum as necessary. The District may engage a third party for plan review by interlocal agreement.
9. The City will provide civil enforcement services to the District for (a) the City's code enforcement ordinances or corresponding state law, (b) nuisance abatement procedures, or, (c) any civil enforcement method authorized by law.
10. If a fine is paid to the City for fire safety code violations, the City may retain its costs plus 1/3 of the collected fine amount with the remainder disbursed to the District. If an enforcement proceeding involves costs greater than the amount collected from fines, the District and City will, in good faith, negotiate a cost sharing agreement regarding services to be provided by the District or City.

SECTION THREE: FIRE IMPACT FEE COLLECTION AND DISBURSEMENT

1. The schedule of fire impact fees within the District's jurisdictional boundary that are currently collected by Lee County and disbursed to the District as a provision of the current building permit fee collection procedure shall be collected by the City and disbursed to the District pursuant to this agreement once the City has established a building permit procedure, permit fees and impact fees pursuant to the necessary ordinance (the "Ordinance").
2. The City will be entitled to keep up to three percent (3%) of the fire impact fees collected pursuant to the Ordinance in order to recover costs in collecting the fees and administering the Ordinance.
3. The determination of the amount of impact fee credits, if any, authorized by the Ordinance will be made by the City consistent with the provisions of the Ordinance.
4. The determination of whether a refund is owed pursuant to the Ordinance will be made by the City consistent with the provisions of the Ordinance. Refunds will be paid by the City and charged back to the District and collected by deducting the appropriate amount from the City's next payment of net impact fee collections due the District.

5. The District shall be bound by the interpretations of the Ordinance which is established under the appeals provisions of the Ordinance. If an administrative decision is appealed to the Circuit Court, the appeal shall be defended by the City unless the District elects to provide defense of the case.
6. The District, in cooperation with the City, will establish administrative and records keeping procedures that are necessary to implement the Ordinance.
7. The City will maintain all records of impact fees collected by reference to the fee payer's name and address, the amount paid in cash and by the use of credits, and the specific permit for which the fees were collected. Similar records shall be maintained for exemptions from the Ordinance.
8. The District shall maintain records of all impact fees spent by reference to the payee's name and address, the specific amount paid and the capital improvement acquired. All required approvals of disbursement of the District impact fees will be coordinated between the District, the City and Lee County if necessary.
9. Until the City adopts the necessary building permit Ordinance or ordinances, Lee County shall continue to collect impact fees for the District. When the City adopts the Ordinance, establishes building permit and impact fee collection procedures and so notifies Lee County, the County shall cease collecting impact fees for the District within the District service area within the City's municipal boundary. Upon notification by Lee County that the County has ceased collection of impact fees for the District within the Municipal boundary, the City shall collect and distribute impact fees to the District pursuant to this agreement.

SECTION FOUR: SOVEREIGN IMMUNITY

The parties agree that by execution of this agreement, no party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided by Florida Statutes.

SECTION FIVE: SCOPE OF THE AGREEMENT

This agreement embodies the whole understanding between the parties. There are no promises, terms, conditions or obligations other than those contained here; and, this agreement shall supersede all previous communications, representations or agreements, either verbal or written.

SECTION SIX: AMENDMENTS TO THE AGREEMENT

This agreement may only be amended by a written document signed by both parties and filed with the Clerk of the Circuit Court of Lee County, Florida.

SECTION SEVEN: TERM

This agreement shall run perpetually, unless terminated by the parties. Provided, this agreement or portions thereof may only be terminated by mutual consent of the parties in writing.

SECTION EIGHT: EFFECTIVE DATE

This agreement shall become effective on the date of execution by the last party to execute the agreement.

SECTION NINE: MISCELLANEOUS

1. The parties represent and warrant that they have full authority to enter into and sign this agreement.
2. The drafting of this agreement has been a joint endeavor between the parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one party than the other.
3. The invalidity of any provision hereof shall in no way affect or invalidate the remainder of the agreement.
4. In no case shall either party be liable for either consequential or special damages of any kind whatsoever, including but not limited to lost revenues, profits or any other damages of any kind whatsoever in any way related to damage, interference, down time or relocation of its equipment resulting from any breach or default under this agreement.
5. Venue for any disputes between the parties requiring adjudication shall be the Circuit Court for Lee County, Florida. All disputes arising under this agreement shall be governed by the laws of the State of Florida. The prevailing party in any dispute, as evidenced by a final, un-appealed order of the court granting the relief requested, shall be entitled to an award of reasonable attorney's fees and allowable costs.

SAN CARLOS PARK FIRE PROTECTION &
RESCUE SERVICE DISTRICT

Witness signature

By: _____
Mary Lou Garofalo, Chairperson

Print Name

Dated: _____

THE VILLAGE OF ESTERO

Witness signature

Print Name

Dated: _____

By: _____

Select Year: 2014 Go

The 2014 Florida Statutes

Title XXXVII
INSURANCE

Chapter 633
FIRE PREVENTION AND CONTROL

[View Entire Chapter](#)

633.216 Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(1) Each county, municipality, and special district that has firesafety enforcement responsibilities shall employ or contract with a firesafety inspector. Except as provided in s. 633.312(2) and (3), the firesafety inspector must conduct all firesafety inspections that are required by law. The governing body of a county, municipality, or special district that has firesafety enforcement responsibilities may provide a schedule of fees to pay only the costs of inspections conducted pursuant to this subsection and related administrative expenses. Two or more counties, municipalities, or special districts that have firesafety enforcement responsibilities may jointly employ or contract with a firesafety inspector.

(2) Except as provided in s. 633.312(2), every firesafety inspection conducted pursuant to state or local firesafety requirements shall be by a person certified as having met the inspection training requirements set by the State Fire Marshal. Such person shall meet the requirements of s. 633.412(1)(a)-(d), and:

(a) Have satisfactorily completed the firesafety inspector certification examination as prescribed by division rule; and

(b)1. Have satisfactorily completed, as determined by division rule, a firesafety inspector training program of at least 200 hours established by the department and administered by education or training providers approved by the department for the purpose of providing basic certification training for firesafety inspectors; or

2. Have received training in another state which is determined by the division to be at least equivalent to that required by the department for approved firesafety inspector education and training programs in this state.

(3) A firefighter certified pursuant to s. 633.408 may conduct firesafety inspections, under the supervision of a certified firesafety inspector, while on duty as a member of a fire department company conducting inservice firesafety inspections without being certified as a firesafety inspector, if such firefighter has satisfactorily completed an inservice fire department company inspector training program of at least 24 hours' duration as provided by rule of the department.

(4) Every firesafety inspector certificate is valid for a period of 4 years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by rule adopted under this chapter, which must include completion of at least 54 hours during the preceding 4-year period of continuing education as

required by the rule of the department or, in lieu thereof, successful passage of an examination as established by the department.

(5) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division.

(6) The State Fire Marshal may deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector if the State Fire Marshal finds that any of the following grounds exist:

(a) Any cause for which issuance of a certificate could have been refused had it then existed and been known to the division.

(b) Violation of this chapter or any rule or order of the State Fire Marshal.

(c) Falsification of records relating to the certificate.

(d) Failure to meet any of the renewal requirements.

(e) Making or filing a report or record that the certificateholder knows to be false, or knowingly inducing another to file a false report or record, or knowingly failing to file a report or record required by state or local law, or knowingly impeding or obstructing such filing, or knowingly inducing another person to impede or obstruct such filing.

(f) Failing to properly enforce applicable fire codes or permit requirements within this state which the certificateholder knows are applicable by committing willful misconduct, gross negligence, gross misconduct, repeated negligence, or negligence resulting in a significant danger to life or property.

(g) Accepting labor, services, or materials at no charge or at a noncompetitive rate from a person who performs work that is under the enforcement authority of the certificateholder and who is not an immediate family member of the certificateholder. For the purpose of this paragraph, the term "immediate family member" means a spouse, child, parent, sibling, grandparent, aunt, uncle, or first cousin of the person or the person's spouse or a person who resides in the primary residence of the certificateholder.

(7) The division and the Florida Building Code Administrators and Inspectors Board, established pursuant to s. 468.605, shall enter into a reciprocity agreement to facilitate joint recognition of continuing education recertification hours for certificateholders licensed under s. 468.609 and firesafety inspectors certified under subsection (2).

(8) The State Fire Marshal shall develop by rule an advanced training and certification program for firesafety inspectors having fire code management responsibilities. The program must be consistent with the appropriate provisions of NFPA 1037, or similar standards adopted by the division, and establish minimum training, education, and experience levels for firesafety inspectors having fire code management responsibilities.

(9) The department shall provide by rule for the certification of firesafety inspectors and fire code administrators.

History.—s. 6, ch. 20671, 1941; s. 8, ch. 65-216; s. 4, ch. 67-78; ss. 13, 35, ch. 69-106; s. 3, ch. 70-299; s. 14, ch. 75-151; s. 1, ch. 77-174; s. 2, ch. 79-352; s. 1, ch. 81-205; s. 1, ch. 82-189; s. 4, ch. 84-243; s. 9, ch. 87-287; s. 2, ch. 88-222; s. 3, ch. 88-362; s. 4, ch. 93-276; s. 11, ch. 95-379; s. 424, ch. 97-102; s. 1396, ch. 2003-261; s. 9, ch. 2007-187; s. 1, ch. 2010-173; s. 52, ch. 2010-176; s. 47, ch. 2011-4; s. 3, ch. 2011-79; s. 27, ch. 2013-183; s. 157, ch. 2014-17.

Note.—Former s. 633.06; s. 633.081.

FIRE OFFICIALS/FIRE SAFETY INSPECTORS

Fire Officials

Fire Chief – David Cambareri
Assistant Fire Chief – Gene Rison
Division Chief Fire – Glen Van Brunt
Division Chief EMS/Safety Officer – Daniel Sieber
Battalion Chief – Burrell
Battalion Chief – Orama
Battalion Chief – Gore
Battalion Chief – Hand

Fire Safety Inspectors

Fire Marshal – Jeff DeBusman
Fire Inspector – Steven Lennon